

Notice of Allowability

Application No.

10/600,917

Examiner

Mila Airapetian

Applicant(s)

LIEBENOW, FRANK

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/03/2007 and Examiner Amendment of 7/13/2007.
2. ☒ The allowed claim(s) is/are 1-33.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 7/13/2007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Richardson on July 13, 2007.

The application has been amended as follows:

In the Claims:

1. (Currently Amended) A method for music distribution to a user comprising:

downloading a content file in a proprietary first data format from a remote server of a content source to a first user device for preview at a first cost basis, said content file including at least one entire song in full fidelity;

providing a player associated with the content source suitable for decoding said content file encoded in the first data format;

granting a capability to convert said content file to a second data format by paying a second cost basis; and

converting said content file to said second data format.

8. (Currently Amended) A system useful for distributing content to a system, the system including an audio playback subsystem; the system comprising:

means for storing encoded content from a content source, said encoded content including at least one entire song in full fidelity encoded for preview in a first protected format associated with the content source;

means for decoding the encoded content for playback directly on the audio playback subsystem, said means for decoding also being associated with the content source;

means for conducting a payment transaction with a means for receiving payment; and means for converting the encoded content into a second format.

20. (Currently Amended) A system useful for distributing content to a system, the system including an audio playback subsystem, the system comprising:

a memory configured to store encoded content from a content source, said encoded content including at least one entire song in full fidelity encoded for preview in a first protected format associated with the content source;

circuitry configured to decode the encoded content for playback directly on the audio playback subsystem, said circuitry configured to decode also being associated with the content source;

circuitry configured to conduct a payment transaction with a payment receiver; and circuitry configured to convert the encoded content into a second format.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Regarding claim 1

The prior art of record neither anticipates nor fairly and reasonably teaches downloading a content file in a proprietary first data format from a remote server of a content source to a first user device for preview at a first cost basis, said content file including at least ***one entire song in full fidelity***.

Regarding claims 8 and 20

Claims 8 and 20 are each parallel in subject matter to the feature noted above with respect to claim 1 and are allowable for reasons similar to those provided for claim 1.

The most remarkable prior art of record is to Warnock et al. (WO 01/29732) and Kobata et al. (US PG Pub. 2002/0082997).

Although Warnock et al. disclosed many features similar to those recited in the above-indicated claims, Warnock et al. still fails to teach the above-noted features in the above-noted claims.

Kobata et al. discloses techniques for controlling and managing digital assets when digital assets are transmitted electronically using the Internet.

It is clear from the description of Kobata et al. that the prior art does not consider the possibility of downloading a content file in a proprietary first data format from a remote server of a content source to a first user device for preview at a first cost basis,

Art Unit: 3625

said content file including at least ***one entire song in full fidelity***, as recited in the independent claims 1, 8 and 20.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(i) JP 2003066972 to Stoguchi, Katsu discloses a system that allows to download desired song data from a server, wherein said song data can be reproduces after download.

(ii) PR Newswire. New York: Oct 3, 2000. pg.1, "Succeeding Where Napster Failed, GotchPort! Bridges the Gap Between the Interests of Labels and Fans" discloses providing music content to customers for previewing for a predetermined period of time; once the previewing period has ended the customer is then prompted to purchase the track.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mila Airapetian whose telephone number is (571) 272-3202. The examiner can normally be reached on Monday-Friday 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA



Mark Fadok

Primary Examiner